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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,204	11/20/2003	Yoichi Yamada	Q78424	6216

23373 7590 01/31/2006

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EXAMINER
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GLEITZ, RYAN M

ART UNIT	PAPER NUMBER
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2852

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A7c

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/717,204	YAMADA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ryan Gleitz	2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 25-54 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-20 is/are allowed.
- 6) ☒ Claim(s) 1-5, 22-24, 55/1, and 56 is/are rejected.
- 7) ☒ Claim(s) 55/6, 55/7, 55/13, 55/15, and 55/20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 5, 22-24, 55/1, and 56 are rejected under 35 U.S.C. 102(e) as being anticipated by Ono (US 6,701,110).

Ono discloses an image forming apparatus including an image bearing member (202) on which a latent image is formed; a plurality of developing devices (221-224) for developing the latent image, each of the developing devices containing developer; and a turnable turning member (203) on which the plurality of developing devices (221-224) are mounted.

A standby position can be set according to the frequency of use of monochrome and color (col. 3, lines 18-22), which reads on the turning member (203) is caused to turn based on a turn history of the turning member (203). Compare the alternate home positions for the turning member (203) in figures 9A and 9F. The turn history determines which of these home positions is used. The home position in figure 9A would require a different number of rotations for developing a set of images than the home position in figure 9F when developing the same set of images. Therefore, the number of times the turning member is caused to turn is based on a turn history of the turning member.

Regarding claim 4, each of the developing devices (221-224) does not have a stirring member.

Regarding claim 5, the frequency of use of monochrome or color copies must be recorded by either the number of that type of medium that has been output or a number of times of turns of the turning member.

Regarding claim 22, figure 3 shows a computer-readable storage medium having recorded thereon a program for controlling the image forming apparatus.

Regarding claim 23, a computer system may be connected to the image forming apparatus. See External I/F, figure 3.

Regarding claim 24, the image forming apparatus also reads on a method for forming an image with an image forming apparatus.

Regarding claims 55/1 and 56, the turns the turning member is caused to turn occur both at the beginning and the end of an output job. See figure 10.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono (US 6,701,110) in view of Shimura (US 6,889,915).

Ono disclose the image forming apparatus above but are silent as to the details of developing devices (221-224).

However, Shimura discloses a similar image forming apparatus including developing devices (4K,Y,M,C) as shown in figure 3, each of which have two containers, and when the turning member (4) is caused to turn the developer in the containers is mixed. As shown in figure 1, the developer supplying section of each developing device (4K,Y,M,C) is at a lower portion when the developing device is position in the developing position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the image forming apparatus of Ono with the developing device of Shimura. The suggestion for doing so would have been that the construction of the developing device allows all of the developer to reach the developing roller without the use of a stirring member, reducing the cost of the apparatus.

***Allowable Subject Matter***

Claim 6-20 are allowed.

Claims 55/6, 55/7, 55/13, 55/15, and 55/20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

Applicant's arguments filed 17 November 2005 (Response) have been fully considered but they are not persuasive.

Applicant correctly submits that in Ono, "the standby position or initial starting position is set depending on whether monochrome or color printing is performed more often," but somehow concludes, "the 'preliminary movement' is not caused by the frequency of use of monochrome or color printing." See Response, p. 24. This argument is not persuasive because the frequency of use is equivalent to which more is performed more often.

Applicant further submit that Ono at best teaches that the frequency of use indicates a starting position for the turning member but does not cause it to turn. See Response, p. 24. This is not persuasive because the turning member must be caused to turn before it can reach the starting position.

Regarding the 35 USC 103 rejections of claims 2 and 3, Applicant submits that since Ono does not have a stirring member, one skilled in the art would not be motivated to modify Ono by Shimura based on the motivation of reducing the cost of the apparatus by using a construction that allows the developer to reach the developing roller without the use of a stirring member, as provided by the previous office action. See Response, p. 25. Ono is silent on whether the disclosed apparatus includes a stirring member. Internal details of the developing device are not discussed. If Ono does have a stirring member, then it must have either the structure required by claims 2 and 3, in which case a rejection under 35 USC 102 is proper, or it must have an equivalent means of mixing and delivering toner without a stirring member, in which case, modification by Shimura under 35 USC 103 would be proper.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

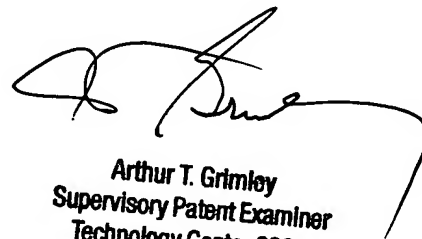
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Gleitz whose telephone number is (571) 272-2134. The examiner can normally be reached on Monday-Friday between 9:00AM and 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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